

AMENDMENT 3
AMENDED AND RESTATED
FY2026 AND FY2027 COMMUNITY SERVICES PERFORMANCE CONTRACT
MASTER AGREEMENT
Exhibit C - PHI Data Sharing and Use Agreement
Contract No. P1636.[vCSBCode].3

Background

Various laws govern the confidentiality and security of individually identifiable health information, including the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191 (1996) and its accompanying standards found at 45 CFR 160, 162, and 164 (“HIPAA”) and the regulations governing the confidentiality of substance use disorder patient records found at Part 2.

CSBs are considered covered entities under HIPAA as organizations collecting and transmitting PHI in electronic form. Further, CSBs are considered federally assisted programs subject to the requirements of Part 2 because they receive federal funding, and they provide diagnosis, treatment, and referral for treatment of substance use disorders.

DBHDS is considered a health oversight agency in relation to the CSBs under HIPAA as a governmental agency with oversight obligations for the publicly funded behavioral health system. Further, DBHDS is a state governmental agency that provides financial assistance to CSBs as Part 2 programs and is authorized by the Code of Virginia to regulate the activities of the CSBs. DBHDS is tasked with ongoing monitoring of the CSBs and their compliance with the terms of the performance contract pursuant to sections 37.2-508 and 37.2-608 of the Code of Virginia.

HIPAA permits disclosure of PHI by a covered entity to a health oversight agency for various oversight activities authorized by law. (45 CFR 164.512(d)(1))

Part 2 permits the disclosure of PHI by a Part 2 program to a state governmental agency that provides financial assistance to the Part 2 program or is authorized by law to regulate the activities of the Part 2 program for audit and evaluation purposes. Audits and evaluations under this section of the regulation may include but are not limited to the identification of actions DBHDS can make to improve care and outcomes for patients with substance use disorders who are treated by Part 2 programs or ensuring that resources are managed effectively to care for patients. Disclosure of this nature requires this written agreement between the parties.

A. CSB Responsibilities

Exchange data, including PHI, with DBHDS upon request for the purposes of oversight, audit, and/or evaluation.

B. DBHDS Responsibilities

1. DBHDS agrees to follow appropriate process and procedure for requesting data from CSBs as outlined elsewhere in this Performance Contract.
2. Pursuant to 42 CFR § 2.53, DBHDS agrees to:
 - a. Maintain and destroy the PHI in a manner consistent with policies and procedures established that comply with 42 CFR § 2.16.
 - b. Retain records in compliance with applicable federal, state, and local record retention laws.
 - c. Comply with the limitations on use and disclosure at 42 CFR § 2.53(f), which requires that information disclosed under this agreement may only be disclosed back to the Part 2 program from which it was obtained and may be used only to carry out an audit or evaluation purpose or to investigate or prosecute criminal or other activities, as authorized by a court order entered under 42 CFR § 2.66.